

Hemenway, Sandy

From: Saxton, Craig
Sent: Thursday, October 07, 2010 10:50 AM
To: Roxanne Brown
Cc: Hemenway, Sandy
Subject: RE: 9/30/2010 Correspondence---Jug Mtn. Ranch LLC

Hey Roxanne,

After 30 day's, if confirmation that a measuring device was installed hasn't been received, your client will risk losing priority or having the permit voided.

Essentially, since a measuring device wasn't installed, then the conditions of the permit weren't met. 42-219(8) provides (emphasis added):

"(8) In the event that the department shall find that the applicant has not fully complied with the law and the conditions of permit, it may issue a license for that portion of the use which is in accordance with the permit, or may refuse issuance of a license and void the permit. Notice of such action shall be forwarded to the permit holder by certified mail. The applicant may contest such action by the department pursuant to section 42-1701A(3), Idaho Code."

However, Beneficial Use Rule 37.03.02.035.02.c allows a time period for additional information to be submitted if it is determined additional information is needed.

c. If the director determines that a field report is acceptable but that additional information is needed to clarify the field report, he will notify the certified water right examiner in writing of the information required. If the additional information is not submitted within thirty (30) days or within the time specified in the written notice, the priority date of the permit will be advanced one (1) day for each day the information submittal is late. Failure to submit the required information within one (1) year of the date of the department's request is cause for the director to take action to cancel the permit. (7-1-93)

This rule doesn't apply exactly because it isn't a matter of clarification. But Beneficial Use Rule 37.03.02.035.02.c might give us some room to hold off on voiding the permit if information isn't received within 30 day's of Sandy's letter by advancing the priority date.

Thanks,
c

From: Hemenway, Sandy
Sent: Thursday, October 07, 2010 9:39 AM
To: Saxton, Craig
Subject: FW: 9/30/2010 Correspondence---Jug Mtn. Ranch LLC

From: Roxanne Brown [mailto:RBrown@spfwater.com]
Sent: Thursday, October 07, 2010 8:49 AM
To: Hemenway, Sandy
Subject: RE: 9/30/2010 Correspondence---Jug Mtn. Ranch LLC

Sandy,

Thank you for the copy of the letter you sent to Jerry Greenland. Brian (Jug Mountain's attorney) had said the letter was copied to SPF. Unfortunately, we have not yet received our copy (or it's gotten lost in the process!).

What action will the Dept. take after 30 days? We assume the permittee will be given time to installed measuring devices, if necessary? Please let us know so we can correctly advise our client.

Thanks again.

Roxanne Brown
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From: Hemenway, Sandy [mailto:Sandy.Hemenway@idwr.idaho.gov]
Sent: Thursday, October 07, 2010 7:21 AM
To: Roxanne Brown
Cc: Hemenway, Sandy
Subject: 9/30/2010 Correspondence---Jug Mtn. Ranch LLC

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Roxanne,

After speaking with John Westra and Tim Luke last week, the 9/30/2010 correspondence was sent to the water master.

I did send a copy of the 9/30/2010 correspondence to Terry Scanlan, so your office should have a hard copy.

Thanks,

Sandy Hemenway

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